

LEGISLATIVE BILL 152

Approved by the Governor May 26, 2009

Introduced by Pahls, 31.

FOR AN ACT relating to insurance; to amend section 44-6413, Reissue Revised Statutes of Nebraska; to change a provision relating to uninsured and underinsured motorist coverages; and to repeal the original section.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 44-6413, Reissue Revised Statutes of Nebraska, is amended to read:

44-6413 (1) The uninsured and underinsured motorist coverages provided in the Uninsured and Underinsured Motorist Insurance Coverage Act shall not apply to:

(a) Bodily injury, sickness, disease, or death of the insured with respect to which the insured or his or her representative makes, without the written consent of the insurer, any settlement with or obtains any judgment against any person who may be legally liable for any injuries if such settlement adversely affects the rights of the insurer, except that this subdivision shall not apply to underinsured motorist coverage when the insured has given notice to the insurer, in compliance with subsection (2) of section 44-6412, and the insurer has failed to make the required payment to protect its right of subrogation;

(b) Bodily injury, sickness, disease, or death of an insured while occupying a ~~motor~~ vehicle owned by, but not insured by, the named insured or a spouse or relative residing with the named insured;

(c) Bodily injury, sickness, disease, or death of an insured while occupying an owned ~~motor~~ vehicle which is used as a public or livery conveyance and which is not insured as such;

(d) Bodily injury, sickness, disease, or death of an insured through being struck by a vehicle owned by the named insured or a spouse or relative residing with the named insured; and

(e) Bodily injury, sickness, disease, or death of the insured with respect to which the applicable statute of limitations has expired on the insured's claim against the uninsured or underinsured motorist.

(2) Insurers providing motor vehicle liability insurance coverage on an excess or umbrella basis or incidental to some other basic coverage shall not be required to offer, provide, or make available coverage conforming to the Uninsured and Underinsured Motorist Insurance Coverage Act.

(3) An insurer may make underinsured motorist coverage a part of uninsured motorist coverage.

(4) Nothing in the Uninsured and Underinsured Motorist Insurance Coverage Act shall be construed to prevent an insurer from offering, making available, or providing coverage under terms and conditions more favorable to its insured or in limits higher than are required by the act.

(5) No policy subject to the Uninsured and Underinsured Motorist Insurance Coverage Act shall define insured, for purposes of the uninsured and underinsured coverages provided in the act, so as to exclude any person occupying the insured motor vehicle with the express or implied permission of an insured.

~~(5)~~ (6) The Director of Insurance shall adopt and promulgate rules and regulations as are necessary to provide that the language relating to coverages described in the Uninsured and Underinsured Motorist Insurance Coverage Act is not unfair, inequitable, misleading, or deceptive and does not encourage misrepresentation of the coverage.

Sec. 2. Original section 44-6413, Reissue Revised Statutes of Nebraska, is repealed.